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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,206	07/11/2003	James E. Timmerman	2043.100-US	3049
36139	7590	06/28/2004	EXAMINER	
EPSTEIN & GERKEN 1901 RESEARCH BOULEVARD SUITE 340 ROCKVILLE, MD 20850			LEE, JONG SUK	
			ART UNIT	PAPER NUMBER
			3673	

DATE MAILED: 06/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/617,206

Applicant(s)

TIMMERMAN, JAMES E.

Examiner

Jong-Suk (James) Lee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16, 18 and 21-29 is/are rejected.
- 7) ☒ Claim(s) 17, 19 and 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/18/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Heimsoth et al. (US 4,715,604).

Heimsoth et al. discloses a method for installing an anchor member through a sea wall (1) into a soil formation (5), comprising the steps of: forming a passage (28) through the seawall to extend downwardly at an acute angle (see Fig. 3) from a water facing side of the seawall to an earth facing side of the seawall; inserting an anchoring through the passage from the water facing side of the seawall and into the retained earth on the earth facing side of the seawall; advancing/rotating the anchoring member (12) into the retained earth; anchoring an anchor of the anchoring member with a helix/flange (51) in the retained earth at a distance spaced from the earth facing side of the seawall with a longitudinally extending shaft of the anchoring member which carries the anchor extending through the passage by introducing a filler into the passage around the shaft; securing a retaining member (19) on an end of the shaft extending from the passage along the water facing side of the seawall to apply compressive force against the water facing side of

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the seawall to resist displacement of the seawall due to pressure; inserting an insert (23) between the retaining member and the water facing side of the seawall; the anchoring device comprising a sleeve (22) for receiving the shaft of the anchoring members therethrough the seawall with an interference fit (see Figs. 1-9; col.4, lines 27-68; col.5, lines 1-68; col.6, lines 1-68; col.7, lines 1-30).

With respect to the first and second anchoring member installed in the sea wall and periodically inspecting and adjusting the retaining member to the seawall, it is believed to be inherent to have more than one anchor members to reinforce the sea wall in the desired location and further to have checked the sea wall reinforcement in a regular basis for the safety of the structure.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 13-16, 18-24 and 26-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heimsoth et al. in view of Kurose (US 3,999,398). The teachings of Heimsoth et al. have been discussed above.

However, Heimsoth et al. fails to disclose or fairly suggest the method step of installing a connecting member between the end of the first and second retaining member with fixed or adjustable length of the connecting member.

Kurose discloses a retaining wall comprising a plurality of anchors (8) embedded in the soil formation and a head portion (10) at an end of the anchor being connected with a plurality of connecting members (1) with a fixed or adjustable length (see col.2, lines 40-46) between the retaining members/head (10) (see Figs. 1-13; col.3, lines 21-68; col.4, lines 1-53).

Therefore, in view of Kurose, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to add the connecting members between the retaining members in order to reinforce the sea wall against the severe wave actions.

5. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Heimsoth et al as modified by Kurose, as applied to claim 24, and further in view of Merrill (US 1,876,720). The teachings of Heimsoth et al. modified by Kurose have been discussed above.

However, the teachings of Heimsoth et al. modified by Kurose fails to disclose or fairly suggest a turnbuckle as a connecting member. Merrill discloses a connecting device as a turnbuckle element (1) having two parallel side portions (4) (see Figs. 1-5; pg.1, lines 65-89).

Therefore, in view of Merrill, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to further modify the connecting member of Heimsoth et al. as modified by Kurose, by replacing the connecting member with the turnbuckle's parallel portions onto the anchor head portion in order to adjust the length of the connecting member after installation of the anchors with the seawall.

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***Allowable Subject Matter***

6. Claims 17, 19 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***


7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Other references cited disclose a marine wall, a seawall with an anchoring system and an earth anchor and method of setting the same.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jong-Suk (James) Lee whose telephone number is (703) 308-6777. The examiner can normally be reached on 6:30 am to 3:00 pm, Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather C. Shackelford, can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

J. Lee /jjl  
June 17, 2004

  
**Jong-Suk (James) Lee**  
**Primary Examiner**  
**Art Unit 3673**

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